

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

DEDRICK MATTHEWS, #1508083	§	
VS.	§	CIVIL ACTION NO. 6:17cv255
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

Petitioner Dedrick Matthews, proceeding *pro se*, brings this petition for a writ of habeas corpus challenging his Smith County conviction for failure to appear. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the petition should be dismissed for lack of subject matter jurisdiction as an unauthorized second or successive petition. Mr. Matthews has filed objections.

Mr. Matthews previously filed a petition for a writ of habeas corpus in this court challenging his conviction, which was dismissed with prejudice on the merits. *Matthews v. Director, TDCJ-CID*, No. 6:09cv552 (E.D. Tex. Dec. 21, 2010), *coa denied*, No. 11-40014 (5th Cir. June 23, 2011). This court lacks subject matter jurisdiction to consider a second or successive petition unless the Fifth Circuit grants him permission to file it. *Crone v. Cockrell*, 324 F.3d 833, 836 (5th Cir. 2003). A district court should dismiss a second or successive petition for lack of subject matter jurisdiction that has been filed without the permission of the Fifth Circuit. *Id.* at 838. Mr. Matthews has not shown that he has received permission from the Fifth Circuit to file a successive petition. Moreover, a review of the Fifth Circuit's case information website reveals

that he has not been granted permission to file a second or successive petition. In fact, the Fifth Circuit has sanctioned him for filing multiple motions for authorization to file a second or successive petition. *In re: Matthews*, No. 16-40543 (5th Cir. Oct. 27, 2016). The petition should be dismissed for lack of subject matter jurisdiction.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Mr. Matthews to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and Mr. Matthew's objections are without merit. Therefore, the court adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the court. It is accordingly

**ORDERED** that the petition for a writ of habeas corpus is **DISMISSED** without prejudice for lack of subject matter jurisdiction. A certificate of appealability is **DENIED**. All motions not previously ruled on are **DENIED**. It is finally

**ORDERED** that the Clerk of Court shall return unfiled any new petitions for a writ of habeas corpus submitted by Mr. Matthews regarding his conviction unless he shows he has received permission from the Fifth Circuit to file it.

So **ORDERED** and **SIGNED** this 2 day of **June, 2017**.

A handwritten signature in cursive script, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge